

State of California
Business, Transportation and Housing Agency
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS
Resolutions of Necessity
Action Item

Prepared By:
Brice Paris
Chief
Division of Right of Way
(916) 654-5075

CTC Meeting: June 13, 2002

Reference No.: 2.4b.(1)

Original Signed by:
ROBERT L. GARCIA
Chief Financial Officer
June 3, 2002

RESOLUTIONS OF NECESSITY

For each of the proposed resolutions, the property owners are not contesting the following findings contained in Section 1245.230 of the Code of Civil Procedure:

1. The public interest and necessity require the project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. An offer to purchase the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

The only remaining issues with the property owners are related to compensation.

The Department of Transportation recommends the California Transportation Commission adopt Resolutions of Necessity C-18532 through **C-18551 and C-18553** through C-18565 and C-18567 through C-18581 **and C-18584 through C-18587**. Discussions have taken place with all the owners, each of whom has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the resolutions will not interrupt our efforts to secure equitable settlement. In accordance with statutory requirements, each owner has been advised the Department is requesting the resolution at this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18532 - Opal Schanzenbach, et al.

08-SBd-210-KP 26.41-26.60 - Parcel 15476-1 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at the northeast corner of Casmalia and Locust Avenue.

C-18533 - Bruce and Cynthia Lindauer

02-Teh-99-PM 17.4-18.4-Parcel 12547; 12565 - EA 295932 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located near the Town of Dairyville at Le Clair Avenue.

C-18534 - County of Butte

03-But-99-PM39.39-Parcel 31807-1,2,3,4-EA 338709 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, a temporary easement for construction purposes, and a permanent easement for utility purposes, located in the city of Chico at 13871 Highway 99.

C-18535 - Sheila & Thomas R. Nichols

03-But-99-PM 43.35- Parcel 031828-1,2,3 - EA 338709 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, an easement for utility purposes, located in the city of Chico at Highway 99 and Cana Highway.

C-18536 - Los Angeles County Flood Control District

07-LA-60-PM 23.2- Parcels 77124-1, 2 - EA 125709 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, and a permanent easement for freeway purposes, located in the city of Diamond Bar, north of the 60 Freeway, adjacent to Dryander Drive.

C-18537 - County of Los Angeles Department of Parks and Recreation

07-LA-60-PM 24.0- Parcels 77126-1, 2, 3 - EA 125709 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, and permanent easements for drainage and utility purposes, all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements located in the city of Diamond Bar at 22751 East Golden Springs Drive.

C-18538 - Chueng Goon Wong, et ux.

07-LA-138-KP 97.3- Parcel 76585 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located in the unincorporated area of Los Angeles County commonly known as Littlerock at north of Pearblossom Highway, one lot west of 136 Street East.

C-18539 - Foon Kwong Chow, et al.

07-LA-138-KP 97.3- Parcel 76586-1, 2 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a temporary easement for construction purposes, located in the unincorporated area of Littlerock at the northwest corner of Pearblossom Highway and 136 Street East.

C-18540 - Johnnie A. Iler

07-LA-138-KP 97.3- Parcels 76591-1, 2, 3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a temporary easement for construction purposes, located in the unincorporated area of Los Angeles County, commonly known as Littlerock, north of Pearblossom Highway, one lot east of Longview Road.

C-18541 - Nadim Maida

07-LA-138-KP 97.3- Parcel 76602 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located in the unincorporated area of Los Angeles County, commonly known as Pearblossom at Pearblossom Highway from Longview Road to 165th Street East.

C-18542 - William Kang, et al.

07-LA-138-KP 97.3- Parcels 76590-1, 2, 3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a permanent easement for drainage purposes, located in the unincorporated area of Los Angeles County, commonly known as Littlerock, at the northeast corner of Pearblossom Highway and 131st Street East.

C-18543 - LP Equity Resources II Inc.

07-LA-138-KP 98.1-Parcels 76612-1,2,3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a permanent easement for drainage purposes, located in the unincorporated area of Los Angeles County commonly known as Pearblossom at Pearblossom Highway, west of 146th Street East.

C-18544 - Robert E. Austin, et ux.

07-LA-138-KP 98.1 - Parcels 76609-1, 2, 3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a temporary easement for construction purposes, located in the unincorporated area of Los Angeles County, commonly known as Pearblossom, at Pearblossom Highway, bounded by 135th Street East to the west and 165th Street to the east.

C-18545 - Yewon Chon, et ux

07-LA-138-KP 98.1- Parcels 76611-1, 2, 3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a permanent easement for drainage purposes, located in the unincorporated area of Los Angeles County commonly known as Pearblossom at Pearblossom Highway, west of 146th Street East.

C-18546 - Gina Gualtieri, et al.

07-LA-138-KP 98.9- Parcels 76573-1, 2, 3 - EA 104839 (Conventional Highway) Authorizes condemnation of land in fee for a State highway and a temporary easement for construction purposes, located in the unincorporated area of Los Angeles County commonly known as Pearblossom at Pearblossom Highway, west of 146th Street East.

C-18547 - Hollywood 28, LLC

07-LA-710-PM 13.8- Parcel 77996 - EA 023139 (Freeway) Authorizes condemnation of a temporary easement for construction purposes, located in the city of Compton at 4510-4624 Alondra Boulevard, adjacent to the LA-710 southbound on-ramp.

C-18548 - Robert Barry McMichael, Sr., et ux

08-Riv-60-KP 19.0- Parcel 19045-1 - EA 334839 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of Riverside at 3650 Connector Road.

C-18549 - Thibodo Family Trust and Roger L. Meisinger and Marilyn Meisinger Family Trust, et al.

08-Riv-86-PM R3.65- R3.76- Parcel 19084-1,2 - EA 428149 (Expressway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access. A temporary easement for construction purposes, located near the town of Oasis at Northeast corner of Avenue 80 and Buchanan Street.

C-18550 - MBK Southern California, Ltd., formerly known as Birthcer Riverside Marketplace, Partners, Ltd.
08-Riv-91-PM 33.20 - Parcel 18323-1,2 - EA 334839 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, and a temporary construction easement, located in the city of Riverside at West side of Vine Street 400 feet north of Mission Avenue.

C-18551 - Mission and Vine LLC, a California Limited Liability Company
08-Riv-91-KP 33.00- Parcel 18069-1,2 - EA 334839 (Freeway) Authorizes condemnation of land in fee, extinguishment of abutter's rights of access, a temporary easement for construction purposes, located in the city of Riverside at Northwest corner of Misssion Inn Avenue and Vine Street.

~~C-18552 - Kowashoji USA, Inc.~~
~~08-Riv-91-KP 33.21 - Parcel 19042-1 - EA 334832 (Freeway) Authorizes condemnation of a temporary easement for construction purposes, located in the city of Riverside at 3600 Lime Street.~~

C-18553 - Gregorio H. Valdivia, et al.
08-Riv-91-KP 33.39- Parcel 19039-1 - EA 334839 (Freeway) Authorizes condemnation of a temporary easement for Retaining Wall, located in the city of Riverside at 3438 Mulberry Street.

C-18554 - Ronald A. Jue, et ux
08-SBd-15-PM 105.21- Parcel 18506-1,01-01 - EA 3555U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, land in fee which is a remnant and would have little market value, located near the city of Barstow near East side of I-15 and 3 mile south of Outlet Center Drive Offramp.

C-18555 - Samuel Brown, et al.
08-SBd-15-PM 41.9/70.6- Parcel 18512-1,2 - EA 3555U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a temporary easement for highway construction, located in the city of Victorville at East side of I-15 and 1/2 Miles north of Dale Evans Parkway.

C-18556 - Chris J. Lindsey
08-SBd-210-KP R24.2- Parcel 18500-1,2,3,4 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, temporary easements for construction purposes, located in the city of Fontana at Southeast corner of Highland and Casmalia Street.

C-18557 - Francisco Amaro, et al.
08-SBd-210-KP 24.4- Parcels 15457-1, 2, 3 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of Rialto near the 210 freeway, south of Highland and north of Casmalia.

C-18558 - C.G.S. Partnership
08-SBd-210-KP R24.2/24.4- Parcel 15597-1,2,3 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, temporary easements for highway construction, located in the city of Fontana at 17090 Highland Avenue.

C-18559 - Duratrend Industries

08-SBd-210-KP R24.6- Parcel 15458-1,2,3,00-00 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, land in fee which is a remnant and would have little market value, located in the city of Rialto at 2870 West Highland Avenue.

C-18560 - County of San Bernardino

08-SBd-210-KP R24.6- Parcels 15460-1,2-EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway and a temporary easement for construction purposes, located in the city of Rialto near the 210 Freeway and Casmalia.

C-18561 - County of San Bernardino

08-SBd-210-KP R25.2- Parcel 15461-1,2,3,4,5,6,7,8,9,10,11 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, temporary easements for highway purposes, a permanent easement for drainage, located in the city of Rialto at N/S of Highland Avenue between Palmetto Avenue and Alder Avenue.

C-18562 - Casmalia Acres Limited, LLP

08-SBd-210-KP 25.75- Parcels 15463-1, 2, 01-01 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway and land in fee which is a remnant and would have little market value, located in the city of Rialto at the 210 Freeway bordered on the west by Alder, north by Casmalia.

C-18563 - Raymond Ayala

08-SBd-210-KP R25.7-R25.8- Parcel 19204-1,2 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at South east corner of Casmalia Street and Alder Avenue.

C-18564 - The John and Dora Boruchin Living Trust

08-SBd-210-KP R25.8- Parcel 15465-1 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of Rialto near Casmalia, west of Alder, and east of Laurel.

C-18565 - The John and Dora Boruchin Living Trust

08-SBd-210-KP R26.2- Parcels 15466-1, 2, 3, 4, 5 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a temporary easement for construction purposes, and a permanent easement for drainage purposes, located in the city of Rialto at the southwest corner of Casmalia and Locust Streets.

~~C-18566 - H & H Partnership~~

~~08-SBd-210-KP R26.4- Parcel 19277-1 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at Highland Avenue and Locust Avenue.~~

C-18567 - Southern California Edison

08-SBd-210-KP R26.4- Parcel 15468-1 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at Southeast corner of Highland and Locust Avenue.

C-18568 - Zecharia Hovav, et ux

08-SBd-210-KP R26.3-R26.7- Parcels 15473-1, 2 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at north of Highland between Locust and Linden Avenue.

C-18569 - Zecharia Hovav, et al.

08-SBd-210-KP R26.6-R27.0- Parcels 15477-1, 2 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at north of Highland between Locust and Linden Avenue.

C-18570 - Ramesh Dolwani

08-SBd-210-KP R26.61-R26.62- Parcel 15479-2 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at the northeast corner of Casmalia and Locust Avenue.

C-18571 - Parish of Dallas County Elgin Trust, et al.

08-SBd-210-KP R26.9- Parcels 15481-1,2,3 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of Rialto at the southwest corner of Linden and Casmalia.

C-18572 - James V. Dickey, et ux

08-SBd-210-KP R27.2- Parcel 15482-1 - EA 4437U9 (Freeway) Authorizes condemnation of land in fee for a State highway, located in the city of Rialto at North east corner of Casmalia Street and Linden Street.

C-18573 - Darryl R. Richards, et al.

08-SBD-210-PM 27.77- Parcel 18245-1,2,3 - EA 443829 (Freeway) Amends Resolution No. C-18407, adopted December 12, 2001, which authorized condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of Rialto at Southern corner of Cedar Avenue and Casmalia Street. This Amended Resolution adds a fee acquisition of subparcel 2 to correct the legal description.

C-18574 - Jean Souza

10-SJ-120-KP 16.0- Parcel 14303 - EA 0A7409 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located in the unincorporated area of Ripon near intersection of North Ripon Road. and State HWY 120.

C-18575 - Manuel Roig, Trustee

10-SJ-120-KP 19.2- Parcel 14326 - EA 0A7409 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, the right and easement to enter the remaining ownership to server and shore certain improvements at the right of way line, located in the unincorporated area of San Joaquin County at 18181 E. Hwy 120, Ripon, Ca. 95366.

C-18576 - Joe L. Sutter as Trustee of the Joe L. Sutter Revocable Living Trust 1993

10-SJ-120-KP 20.3- Parcel 14331 - EA 0A7409 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located in the unincorporated area of San Joaquin County at 19245 E. State Hwy 120, Ripon, Ca. 95366.

C-18577 - Michael A. Rodoani, et ux

10-SJ-120-KP 20.7- Parcel 14334 - EA 0A7409 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located in the city of Escalon at 19533 E. State Route 120.

C-18578 - Marjorie E. Alfieri

10-SJ-120-KP 21.9- Parcel 14339 - EA 0A7409 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, located near the city of Escalon at 20679 E. State Highway 120.

C-18579 - Mike Clark, et al.

11-SD-52-KP 24.8- Parcel 27016 - EA 010612 (Freeway) Authorizes condemnation of land in fee for a State highway, land in fee which is a remnant and would have little market value, located in the city of Santee at 9307 Mission Gorge Road.

C-18580 - Pacific Rim Pointe, LLC, et al

11-SD-905-KP 18.0 - Parcel 31382 - EA 091809 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, the right and easement to enter the remaining ownership to sever and remove certain improvements that straddle the right of way line, located in the city of San Diego near Heinrich Hertz Drive, Otay Mesa, APN 646-230-01.

C-18581- Pacific Rim Pointe, LLC, et al

11-SD-905-KP 18.0 - Parcel 31415 - EA 091809 (Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, located in the city of San Diego near Heinrich Hertz Drive, Otay Mesa, APN 646-230-03.

C-18584 - Southern California Edison Company

12-Ora-133-KP 12.1- Parcels 102214-1, 2, 3, 4, 5 - EA 1072U9 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, temporary easements for construction purposes, permanent easements for slope purposes, located in the city of Irvine at State Route 133, south of Laguna Canyon Road.

C-18585 - Park Place Development, LLC

12-Ora-405-PM 6.7- Parcel 102137-1,2- EA 086209 (Freeway) Authorizes condemnation of a temporary easements for construction purposes and a temporary easement for ingress and egress purposes, located in the city of Irvine at 3311 Michelson Drive.

C-18586 - Contra Costa County Flood Control & Water Conservation District

04-CC-680-PM 20.9- Parcel 58059-1A,1B,1C,1D,1E - EA 228562 (Freeway) Authorizes condemnation of an easement for batter pile purposes, an easement for drainage purposes, a temporary easement for construction purposes, two temporary easements for access purposes, located in the unincorporated area of Contra Costa County at Grayson Creek.

C-18587 - Contra Costa County Flood Control & Water Conservation District

04-CC-680-PM 20.9-Parcel 58368-1A,1B,1C,1D,1E,1F - EA 228562(Freeway) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, four temporary easements for construction and access, a permanent easement for drainage, located near the unincorporated area of Contra Costa County at Grayson Creek.



Janice D. Magdich
jmagdich@herumcrabtree.com

May 2, 2002

VIA FACSIMILE and U.S. MAIL

Gloria A. Crisostomo
Right of Way Agent
Department of Transportation
Division of Right of Way
P.O. Box 20048
Stockton, CA 95201
Facsimile No. (209) 948-7641

Re: 10-SJ-120-15.5KP; E.A. 0A7409; Parcel No. 14334
19533 State Highway 120, Escalon, San Joaquin County, CA
Michael and Sharon Rodoani

Dear Ms. Crisostomo:

Our firm represents Michael and Sharon Rodoani the owners of real property located at 19533 State Highway 120, Escalon, San Joaquin County, California. As you are aware, Caltrans is seeking to acquire a portion of the Rodoani property in conjunction with the widening of that portion of Highway 120 between Jack Tone Road and Irwin Road. To that end Caltrans has scheduled a hearing before the California Transportation Commission (CTC) on June 12 and 13, 2002 in San Bernardino to seek adoption of a resolution of necessity to acquire the Rodoani property.

In lieu of a personal appearance at the CTC meeting, we are submitting our objections to the proposed take in writing. Therefore, we request that this letter and the objections contained be made a part of the administrative record with regard to the agenda item concerning the acquisition of the Rodoani property.

California Code of Civil Procedure section 1240.030 sets forth the findings that must be made prior to the adoption of a resolution of necessity. Those findings include:

1. Whether the *public interest and necessity* require the proposed project as required by Code of Civil Procedure section 1240.030.
2. Whether the proposed project is planned or located in the manner that will be the *most compatible with the greatest public good and the least private injury* as required by Code of Civil Procedure section 1240.030.

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A Professional Corporation

Gloria A. Crisostomo
Right of Way Agent
Department of Transportation
May 2, 2002
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3. Whether the real property sought to be acquired is *necessary* for the proposed project as required by Code of Civil Procedure section 1240.030.

We submit that the second finding, as set forth herein, cannot be made based on the information before the CTC.

The property sought to be acquired (0.596 acres) includes a single-family residence. Acquisition of the home will result in significant private injury to Mr. and Mrs. Rodoani resulting from the loss of monthly rental income and will be a hardship on the family that has lived in the home for the past six years. As a consequence the project has not been planned or located in a manner that will be the *most compatible with the greatest public good and the least private injury* as required by Code of Civil Procedure section 1240.030. Therefore, we contend that the required statutory finding cannot be made by the CTC.

Further, while we recognize that valuation is not at issue for purposes of considering the proposed resolution of necessity, the adequacy of Caltrans' offer to purchase is at issue and must be considered by the CTC. As such we are challenging the adequacy of the offer to purchase made by Caltrans and the appraisal statement on which it was based. The offer to purchase submitted to the Mr. and Mrs. Rodoani, as required under Government Code section 7267.2, is inadequate and flawed because it was based on inadequate and stale sales data. Therefore, Caltrans' offer to purchase fails to meet the statutory requirements of Government Code section 7267.2.

Based on the foregoing, we respectfully request that the CTC decline to adopt the proposed resolution of necessity.

Thank you for your consideration.

Very truly yours



JANICE D. MAGDICH
Attorney-at-Law

cc: Mr. & Mrs. Michael Rodoani
Sharon Parsons, Acquisitions Chief